

2007 DRAFTING REQUEST

Assembly Amendment (AA-SSA1-SB40)

Received: **06/26/2007**

Received By: **agary**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Dyck**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - highways**

Extra Copies: **BAB**

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

LFB:.....Dyck -

Topic:

ARC 21, Department of transportation permits for activities along state trunk highways within municipal limits

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/1	agary 06/28/2007	wjackson 06/28/2007	jfrantze 06/29/2007	_____	cduerst 06/29/2007		

FE Sent For:

<END>

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/?	agary	1/11/07 6/28		Self 6/29			

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<END>

ARG

21. DEPARTMENT OF TRANSPORTATION PERMITS FOR ACTIVITIES ALONG STATE TRUNK HIGHWAYS WITHIN MUNICIPAL LIMITS

Specify that any municipality may approve a permit or provide written approval for any activity or alteration along a state trunk highway within the municipality for which the Department of Transportation requires a permit or written approval if the Department has not approved a permit or provided written approval for the activity within 60 days or if the Department denies a permit or provides written denial. Permits or written approval are required for activities and alterations, such as the construction of a driveway or other alterations to access to a highway or the construction of, or alteration to, improvements on property adjacent to a highway.

LPS: Please
fix request.

2007 - 2008 LEGISLATURE

LRBb0664/1

ARG:Y...

WLJ

D-note

in 6/28

LFB:.....Dyck ^{OK} ARC 21 - Department of transportation permits for activities
along state trunk highways within municipal limits

~~FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION~~

ASSEMBLY AMENDMENT ,

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2007 SENATE BILL 40

1 At the locations indicated, amend the substitute amendment as follows:

2 ✓ **1.** Page 1190, line 21: after that line insert:

3 "SECTION 2523p. 83.015 (2) (b) of the statutes is amended to read:

4 83.015 (2) (b) In any county with a highway commissioner appointed under s.
5 83.01 (1) (b) or (c), the county highway committee shall be only a policy-making body
6 determining the broad outlines and principles governing administration and the
7 county highway commissioner shall have the administrative powers and duties
8 prescribed for the county highway committee under par. (a), sub. (3) (a) and ss.
9 27.065 (4) (b) and (13), 32.05 (1) (a), 82.08, 83.01 (6), 83.013, 83.018, 83.025 (1) and
10 (3), 83.026, 83.035, 83.04, 83.05 (1), 83.07 to 83.09, 83.12, 83.14 (6), 83.17, 83.18,

1 83.42 (3) and (4), 84.01 (5), 84.06 (3), 84.07 (1) and (2), 84.09 (1), (3) (a) to (c) and (4),
2 84.10 (1), 86.04 (1) and (2), 86.07 (2) and (2m), 86.19 (3), 86.34 (1), 114.33 (5), 349.07
3 (2), 349.11 (4) and (10) and 349.15 (2). No statutory power, duty or function specified
4 elsewhere for the county highway commissioner may be deemed impliedly repealed
5 for the sole reason that reference to it has been omitted in this paragraph.”✓

History: 1971 c. 211 s. 124; 1977 c. 29 ss. 915, 1654 (8) (c); 1979 c. 110, 147; 1985 a. 29; 1985 a. 223 ss. 2, 5; 1987 a. 27; 1989 a. 56 s. 258; 1997 a. 27; 2003 a. 214.

6 ✓ **2.** Page 1193, line 19: after that line insert:

7 “**SECTION 2534p.** 84.25 (4) of the statutes is renumbered 84.25 (4) (a) and
8 amended to read:

9 84.25 (4) (a) After Except as provided in par. (b), after the establishment of any
10 controlled-access highway, no street or highway or private driveway, shall be opened
11 into or connected with any controlled-access highway without the previous consent
12 and approval of the department in writing, which shall be given only if the public
13 interest shall be served thereby and shall specify the terms and conditions on which
14 such consent and approval is given.

History: 1977 c. 29 s. 1654 (8) (a); 1987 a. 258; 1993 a. 490; 1995 a. 27 ss. 3520, 9130 (4); 1997 a. 3; 1999 a. 9.

15 **SECTION 2534r.** 84.25 (4) (b) of the statutes is created to read:

16 84.25 (4) (b) Notwithstanding any other provision of this chapter, if the
17 department denies approval under par. (a), or fails to provide approval under par. (a)
18 within 60 days after a request for approval is made to the department, related to any
19 access point to any part of a controlled-access highway located within a municipality,
20 that municipality may approve any access point specified in the request for approval
21 made to the department. Any approval under this paragraph shall be in writing and
22 shall specify the terms and conditions on which the approval is given.”✓

23 ✓ **3.** Page 1201, line 8: after that line insert:

24 “**SECTION 2550s.** 86.07 (2) of the statutes is amended to read:

1 86.07 (2) ~~No~~ Subject to sub. (2m), no person shall make any excavation or fill
2 or install any culvert or make any other alteration in any highway or in any manner
3 disturb any highway or bridge without a permit therefor from the highway authority
4 maintaining the highway. Such permit shall contain the statement and be subject
5 to the condition that the work shall be constructed subject to such rules and
6 regulations as may be prescribed by said authority and be performed and completed
7 to its satisfaction, and in the case of temporary alterations that the highway or bridge
8 shall be restored to its former condition, and that the permittee shall be liable to the
9 town or county or state, as the case may be, for all damages which occur during the
10 progress of said work or as a result thereof. Nothing herein shall abridge the right
11 of the department or the county board or its highway committee to make such
12 additional rules, regulations and conditions not inconsistent herewith as may be
13 deemed necessary and proper for the preservation of highways, or for the safety of
14 the public, and to make the granting of any such permit conditional thereon. If
15 Subject to sub. (2m), if any culvert is installed or any excavation or fill or any other
16 alteration is made in violation of the provisions of this subsection, the highway may
17 be restored to its former condition by the highway authority in charge of the
18 maintenance thereof; and any person who violates this subsection shall be punished
19 by a fine of not less than \$5 nor more than \$100, or by imprisonment not exceeding
20 6 months, or both.

21 **SECTION 2550t.** 86.07 (2m) of the statutes is created to read:

22 86.07 (2m) Notwithstanding s. 86.073, if the department denies an application
23 for a permit under sub. (2), or fails to approve a permit under sub. (2) within 60 days
24 after application for the permit is made to the department, related to any part of a
25 state trunk highway located within a municipality, that municipality may issue a

1 permit under sub. (2) approving and authorizing the work, activity, or alteration,
2 with respect to this state trunk highway, that was the subject of the permit
3 application made to the department, regardless of what authority maintains the
4 highway or whether the highway has been designated a connecting highway under
5 s. 86.32.”.

6 ↓ 4. Page 1204, line 9: after that line insert:

7 “SECTION 2558d. 88.68 (4) of the statutes is amended to read:

8 88.68 (4) Whenever the cleaning out, deepening or reconstruction of a drain
9 crossing a public highway requires the lowering of a culvert through such highway
10 in order to provide effective drainage, the drainage board may proceed to lower such
11 culvert only after obtaining a permit under s. 86.07 (2) or (2m)↓. In lieu of issuing a
12 permit, the authority in charge of maintenance of the highway may proceed to do the
13 work itself. Except as provided in s. 86.075, the expenses involved in such lowering
14 shall be borne by the drainage district, or as provided by mutual agreement between
15 the highway authority and the drainage board.”.

16 History: 1993 a. 456.

(END)



DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0664/1dn

ARG:.....

W LJ

ATTN: Jon Dyck

If a municipality steps in and issues a "driveway" permit under s. 86.07 (2) when DOT declined to do so, should highway restoration under s. 86.07 (2) be the responsibility of the municipality or DOT? By failing to address the issue in this draft, the responsibility remains with DOT.

It is my understanding that the entire subject matter of this request is covered under current law by permits under s. 86.07 (2) and approvals under s. 84.25.

Aaron R. Gary

Legislative Attorney

Phone: (608) 261-6926

E-mail: aaron.gary@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb0664/1dn
ARG:wlj:jf

June 29, 2007

ATTN: Jon Dyck

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State of Wisconsin
2007 - 2008 LEGISLATURE

LRBb0664/1
ARG:wlj:jf

LFB:.....Dyck - ARC 21, Department of transportation permits for activities
along state trunk highways within municipal limits

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83.42 (3) and (4), 84.01 (5), 84.06 (3), 84.07 (1) and (2), 84.09 (1), (3) (a) to (c) and (4), 84.10 (1), 86.04 (1) and (2), 86.07 (2) and (2m), 86.19 (3), 86.34 (1), 114.33 (5), 349.07 (2), 349.11 (4) and (10) and 349.15 (2). No statutory power, duty or function specified elsewhere for the county highway commissioner may be deemed impliedly repealed for the sole reason that reference to it has been omitted in this paragraph.”.

2. Page 1193, line 19: after that line insert:

“**SECTION 2534p.** 84.25 (4) of the statutes is renumbered 84.25 (4) (a) and amended to read:

84.25 (4) (a) After Except as provided in par. (b), after the establishment of any controlled-access highway, no street or highway or private driveway, shall be opened into or connected with any controlled-access highway without the previous consent and approval of the department in writing, which shall be given only if the public interest shall be served thereby and shall specify the terms and conditions on which such consent and approval is given.

SECTION 2534r. 84.25 (4) (b) of the statutes is created to read:

84.25 (4) (b) Notwithstanding any other provision of this chapter, if the department denies approval under par. (a), or fails to provide approval under par. (a) within 60 days after a request for approval is made to the department, related to any access point to any part of a controlled-access highway located within a municipality, that municipality may approve any access point specified in the request for approval made to the department. Any approval under this paragraph shall be in writing and shall specify the terms and conditions on which the approval is given.”.

3. Page 1201, line 8: after that line insert:

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9 town or county or state, as the case may be, for all damages which occur during the
10 progress of said work or as a result thereof. Nothing herein shall abridge the right
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16 (END)